

REFERENCE TITLE: firearms; airport designated security area

State of Arizona
House of Representatives
Forty-eighth Legislature
Second Regular Session
2008

HB 2380

Introduced by
Representative Weiers JP, Senator Gray L

AN ACT

AMENDING SECTIONS 13-3101, 13-3102, 13-3110 AND 13-3112, ARIZONA REVISED
STATUTES; RELATING TO WEAPONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 13-3101, Arizona Revised Statutes, is amended to
3 read:

4 ~~13-3101.~~ Definitions

5 A. In this chapter, unless the context otherwise requires:

6 1. "AIRPORT DESIGNATED SECURITY AREA" MEANS ANY AREA OF AN AIRPORT
7 SPECIFIED IN AN AIRPORT SECURITY PROGRAM THAT IS AUTHORIZED AND APPROVED BY
8 THE UNITED STATES TRANSPORTATION SECURITY ADMINISTRATION PURSUANT TO 49
9 UNITED STATES CODE SECTION 44903(h)(7)(F).

10 ~~1-~~ 2. "Deadly weapon" means anything that is designed for lethal
11 use. The term includes a firearm.

12 ~~2-~~ 3. "Deface" means to remove, alter or destroy the manufacturer's
13 serial number.

14 ~~3-~~ 4. "Explosive" means any dynamite, nitroglycerine, black powder or
15 other similar explosive material, including plastic explosives. Explosive
16 does not include ammunition or ammunition components such as primers,
17 percussion caps, smokeless powder, black powder and black powder substitutes
18 used for hand loading purposes.

19 ~~4-~~ 5. "Firearm" means any loaded or unloaded handgun, pistol,
20 revolver, rifle, shotgun or other weapon that will expel, is designed to
21 expel or may readily be converted to expel a projectile by the action of an
22 explosive. Firearm does not include a firearm in permanently inoperable
23 condition.

24 ~~5-~~ 6. "Occupied structure" means any building, object, vehicle,
25 watercraft, aircraft or place with sides and a floor that is separately
26 securable from any other structure attached to it, that is used for lodging,
27 business, transportation, recreation or storage and in which one or more
28 human beings either are or are likely to be present or so near as to be in
29 equivalent danger at the time the discharge of a firearm occurs. Occupied
30 structure includes any dwelling house, whether occupied, unoccupied or
31 vacant.

32 ~~6-~~ 7. "Prohibited possessor" means any person:

33 (a) Who has been found to constitute a danger to himself or to others
34 pursuant to court order under section 36-540, and whose court ordered
35 treatment has not been terminated by court order.

36 (b) Who has been convicted within or without this state of a felony or
37 who has been adjudicated delinquent for a felony and whose civil right to
38 possess or carry a gun or firearm has not been restored.

39 (c) Who is at the time of possession serving a term of imprisonment in
40 any correctional or detention facility.

41 (d) Who is at the time of possession serving a term of probation
42 pursuant to a conviction for a domestic violence offense as defined in
43 section 13-3601 or a felony offense, parole, community supervision, work
44 furlough, home arrest or release on any other basis or who is serving a term

1 of probation or parole pursuant to the interstate compact under title 31,
2 chapter 3, article 4.

3 (e) Who is a prohibited possessor under 18 United States Code section
4 922(g)(5), except as provided by 18 United States Code section 922(y).

5 ~~7-~~ 8. "Prohibited weapon" means, but does not include fireworks
6 imported, distributed or used in compliance with state laws or local
7 ordinances, any propellant, propellant actuated devices or propellant
8 actuated industrial tools that are manufactured, imported or distributed for
9 their intended purposes or a device that is commercially manufactured
10 primarily for the purpose of illumination, including any of the following:

11 (a) Explosive, incendiary or poison gas:

12 (i) Bomb.

13 (ii) Grenade.

14 (iii) Rocket having a propellant charge of more than four ounces.

15 (iv) Mine.

16 (b) Device that is designed, made or adapted to muffle the report of a
17 firearm.

18 (c) Firearm that is capable of shooting more than one shot
19 automatically, without manual reloading, by a single function of the trigger.

20 (d) Rifle with a barrel length of less than sixteen inches, or shotgun
21 with a barrel length of less than eighteen inches, or any firearm that is
22 made from a rifle or shotgun and that, as modified, has an overall length of
23 less than twenty-six inches.

24 (e) Instrument, including a nunchaku, that consists of two or more
25 sticks, clubs, bars or rods to be used as handles, connected by a rope, cord,
26 wire or chain, in the design of a weapon used in connection with the practice
27 of a system of self-defense.

28 (f) Breakable container that contains a flammable liquid with a flash
29 point of one hundred fifty degrees Fahrenheit or less and that has a wick or
30 similar device capable of being ignited.

31 (g) Chemical or combination of chemicals, compounds or materials,
32 including dry ice, that is placed in a sealed or unsealed container for the
33 purpose of generating a gas to cause a mechanical failure, rupture or
34 bursting of the container.

35 (h) Combination of parts or materials that is designed and intended
36 for use in making or converting a device into an item set forth in
37 subdivision (a) or (f) of this paragraph.

38 B. The items set forth in subsection A, paragraph ~~7-~~ 8, subdivisions
39 (a), (b), (c) and (d) of this section do not include any firearms or devices
40 that are registered in the national firearms registry and transfer records of
41 the United States treasury department or any firearm that has been classified
42 as a curio or relic by the United States treasury department.

1 Sec. 2. Section 13-3102, Arizona Revised Statutes, is amended to read:
2 13-3102. Misconduct involving weapons; defenses;
3 classification; definitions
4 A. A person commits misconduct involving weapons by knowingly:
5 1. Carrying a deadly weapon without a permit pursuant to section
6 13-3112 except a pocket knife concealed on his person; or
7 2. Carrying a deadly weapon without a permit pursuant to section
8 13-3112 concealed within immediate control of any person in or on a means of
9 transportation; or
10 3. Manufacturing, possessing, transporting, selling or transferring a
11 prohibited weapon; or
12 4. Possessing a deadly weapon or prohibited weapon if such person is a
13 prohibited possessor; or
14 5. Selling or transferring a deadly weapon to a prohibited possessor;
15 or
16 6. Defacing a deadly weapon; or
17 7. Possessing a defaced deadly weapon knowing the deadly weapon was
18 defaced; or
19 8. Using or possessing a deadly weapon during the commission of any
20 felony offense included in chapter 34 of this title; or
21 9. Discharging a firearm at an occupied structure in order to assist,
22 promote or further the interests of a criminal street gang, a criminal
23 syndicate or a racketeering enterprise; or
24 10. Unless specifically authorized by law, entering any public
25 establishment or attending any public event and carrying a deadly weapon on
26 his person after a reasonable request by the operator of the establishment or
27 the sponsor of the event or the sponsor's agent to remove his weapon and
28 place it in the custody of the operator of the establishment or the sponsor
29 of the event for temporary and secure storage of the weapon pursuant to
30 section 13-3102.01; or
31 11. Unless specifically authorized by law, entering an election polling
32 place on the day of any election carrying a deadly weapon; or
33 12. Possessing a deadly weapon on school grounds; or
34 13. Unless specifically authorized by law, entering a nuclear or
35 hydroelectric generating station carrying a deadly weapon on his person or
36 within the immediate control of any person; or
37 14. Supplying, selling or giving possession or control of a firearm to
38 another person if the person knows or has reason to know that the other
39 person would use the firearm in the commission of any felony; or
40 15. Using, possessing or exercising control over a deadly weapon in
41 furtherance of any act of terrorism as defined in section 13-2301 or
42 possessing or exercising control over a deadly weapon knowing or having
43 reason to know that it will be used to facilitate any act of terrorism as
44 defined in section 13-2301.

1 16. CARRYING, POSSESSING OR EXERCISING CONTROL OVER A DEADLY WEAPON IN
2 AN AIRPORT DESIGNATED SECURITY AREA.

3 B. Subsection A, paragraph 1 of this section shall not apply to a
4 person in his dwelling, on his business premises or on real property owned or
5 leased by that person.

6 C. Subsection A, paragraphs 1, 2, 3, 7, 10, 11, 12 and 13 of this
7 section shall not apply to:

8 1. A peace officer or any person summoned by any peace officer to
9 assist and while actually assisting in the performance of official duties; or

10 2. A member of the military forces of the United States or of any
11 state of the United States in the performance of official duties; or

12 3. A warden, deputy warden or correctional officer of the state
13 department of corrections; or

14 4. A person specifically licensed, authorized or permitted pursuant to
15 a statute of this state or of the United States.

16 D. Subsection A, paragraphs 3 and 7 of this section shall not apply
17 to:

18 1. The possessing, transporting, selling or transferring of weapons by
19 a museum as a part of its collection or an educational institution for
20 educational purposes or by an authorized employee of such museum or
21 institution, if:

22 (a) Such museum or institution is operated by the United States or
23 this state or a political subdivision of this state, or by an organization
24 described in 26 United States Code section 170(c) as a recipient of a
25 charitable contribution; and

26 (b) Reasonable precautions are taken with respect to theft or misuse
27 of such material.

28 2. The regular and lawful transporting as merchandise; or

29 3. Acquisition by a person by operation of law such as by gift, devise
30 or descent or in a fiduciary capacity as a recipient of the property or
31 former property of an insolvent, incapacitated or deceased person.

32 E. Subsection A, paragraph 3 of this section shall not apply to the
33 merchandise of an authorized manufacturer of or dealer in prohibited weapons,
34 when such material is intended to be manufactured, possessed, transported,
35 sold or transferred solely for or to a dealer, a regularly constituted or
36 appointed state, county or municipal police department or police officer, a
37 detention facility, the military service of this or another state or the
38 United States, a museum or educational institution or a person specifically
39 licensed or permitted pursuant to federal or state law.

40 F. Subsection A, paragraph 1 of this section shall not apply to a
41 weapon or weapons carried in a belt holster ~~which holster~~ THAT is wholly or
42 partially visible, ~~or~~ carried in a scabbard or case designed for carrying
43 weapons ~~which~~ THAT scabbard or case is wholly or partially visible or carried
44 in luggage. Subsection A, paragraph 2 of this section shall not apply to a
45 weapon or weapons carried in a case, holster, scabbard, pack or luggage that

1 is carried within a means of transportation or within a storage compartment,
2 map pocket, trunk or glove compartment of a means of transportation.

3 G. Subsection A, paragraph 10 of this section shall not apply to
4 shooting ranges or shooting events, hunting areas or similar locations or
5 activities.

6 H. Subsection A, paragraph 3 of this section shall not apply to a
7 weapon described in section 13-3101, subsection A, paragraph ~~7~~ 8,
8 subdivision (e), if such weapon is possessed for the purposes of preparing
9 for, conducting or participating in lawful exhibitions, demonstrations,
10 contests or athletic events involving the use of such weapon. Subsection A,
11 paragraph 12 of this section shall not apply to a weapon if such weapon is
12 possessed for the purposes of preparing for, conducting or participating in
13 hunter or firearm safety courses.

14 I. Subsection A, paragraph 12 of this section shall not apply to the
15 possession of a:

16 1. Firearm that is not loaded and that is carried within a means of
17 transportation under the control of an adult provided that if the adult
18 leaves the means of transportation the firearm shall not be visible from the
19 outside of the means of transportation and the means of transportation shall
20 be locked.

21 2. Firearm for use on the school grounds in a program approved by a
22 school.

23 J. SUBSECTION A, PARAGRAPH 16 OF THIS SECTION SHALL NOT APPLY TO:

24 1. A PEACE OFFICER WHILE IN THE ACTUAL PERFORMANCE OF THE OFFICER'S
25 DUTIES.

26 2. A MEMBER OF THE MILITARY FORCES OF THE UNITED STATES OR OF ANY
27 STATE OF THE UNITED STATES IN THE ACTUAL PERFORMANCE OF THE MEMBER'S OFFICIAL
28 DUTIES.

29 3. A FLIGHT CREW MEMBER WHO IS A FEDERAL FLIGHT DECK OFFICER AS
30 AUTHORIZED BY THE UNITED STATES TRANSPORTATION ADMINISTRATION.

31 ~~J~~ K. The operator of the establishment or the sponsor of the event
32 or the employee of the operator or sponsor or the agent of the sponsor,
33 including a public entity or public employee, is not liable for acts or
34 omissions pursuant to subsection A, paragraph 10 of this section unless the
35 operator, sponsor, employee or agent intended to cause injury or was grossly
36 negligent.

37 ~~K~~ L. Misconduct involving weapons under subsection A, paragraph 9,
38 14 or 15 of this section is a class 3 felony. Misconduct involving weapons
39 under subsection A, paragraph 3, 4, 8 or 13 of this section is a class 4
40 felony. Misconduct involving weapons under subsection A, paragraph 12 of
41 this section is a class 1 misdemeanor unless the violation occurs in
42 connection with conduct ~~which~~ THAT violates the provisions of section
43 13-2308, subsection A, paragraph 5, section 13-2312, subsection C, section
44 13-3409 or section 13-3411, in which case the offense is a class 6 felony.
45 Misconduct involving weapons under subsection A, paragraph 5, 6, ~~or~~ 7 OR 16

of this section is a class 6 felony. Misconduct involving weapons under subsection A, paragraph 1, 2, 10 or 11 of this section is a class 1 misdemeanor.

~~1-~~ M. For the purposes of this section:

1. "Public establishment" means a structure, vehicle or craft that is owned, leased or operated by this state or a political subdivision of this state.

2. "Public event" means a specifically named or sponsored event of limited duration ~~THAT IS~~ either conducted by a public entity or conducted by a private entity with a permit or license granted by a public entity. Public event does not include an unsponsored gathering of people in a public place.

3. "School" means a public or nonpublic kindergarten program, common school or high school.

4. "School grounds" means in, or on the grounds of, a school.

Sec. 3. Section 13-3110, Arizona Revised Statutes, is amended to read:

13-3110. Misconduct involving simulated explosive devices; classification; definition

A. A person commits misconduct involving simulated explosive devices by intentionally giving or sending to another person or placing in a private or public place a simulated explosive device with the intent to terrify, intimidate, threaten or harass.

B. The placing or sending of a simulated explosive device without written notice attached to the device in a conspicuous place that the device has been rendered inert and is possessed for the purpose of curio or relic collection, display or other similar purpose is prima facie evidence of intent to terrify, intimidate, threaten or harass.

C. Misconduct involving simulated explosive devices is a class 1 misdemeanor.

D. ~~IN~~ ~~FOR THE PURPOSES OF~~ this section "simulated explosive device" means a simulation of a prohibited weapon described in section 13-3101, ~~SUBSECTION A~~, paragraph ~~7- 8~~, subdivision (a) or (f) that a reasonable person would believe is such a prohibited weapon.

Sec. 4. Section 13-3112, Arizona Revised Statutes, is amended to read:

13-3112. Concealed weapons; qualification; application; permit to carry; certificate of firearms proficiency; training program; program instructors; report; applicability; violation; classification

A. The department of public safety shall issue a permit to carry a concealed weapon to a person who is qualified under this section. The person shall carry the permit at all times when the person is in actual possession of the concealed weapon and shall present the permit for inspection to any law enforcement officer on request.

B. A person who fails to carry the permit at all times that the person is in actual possession of a concealed weapon may have the permit suspended. The department of public safety shall be notified of all violations of this

1 section and shall immediately suspend the permit. The permittee shall
2 present the permit to the law enforcement agency or the court. On
3 notification of the presentation of the permit, the department shall restore
4 the permit.

5 C. The permit of a person who is arrested or indicted for an offense
6 that would make the person unqualified under section 13-3101, subsection A,
7 paragraph ~~6~~ 7 or this section shall be immediately suspended and seized.
8 The permit of a person who becomes unqualified on conviction of that offense
9 shall be revoked. The permit shall be restored on presentation of
10 documentation from the court if the permittee is found not guilty or the
11 charges are dismissed. The permit shall be restored on presentation of
12 documentation from the county attorney that the charges against the permittee
13 were dropped or dismissed.

14 D. A permittee who carries a concealed weapon and who fails to present
15 a permit for inspection on the request of a law enforcement officer is guilty
16 of a petty offense. A permittee shall not be convicted of a violation of
17 this subsection if the permittee produces to the court a legible permit that
18 is issued to the permittee and that was valid at the time the violation of
19 this subsection occurred.

20 E. The department of public safety shall issue a permit to an
21 applicant who meets all of the following conditions:

- 22 1. Is a resident of this state or a United States citizen.
- 23 2. Is twenty-one years of age or older.
- 24 3. Is not under indictment for and has not been convicted in any
25 jurisdiction of a felony.
- 26 4. Does not suffer from mental illness and has not been adjudicated
27 mentally incompetent or committed to a mental institution.
- 28 5. Is not unlawfully present in the United States.
- 29 6. Satisfactorily completes a firearms safety training program
30 approved by the department of public safety pursuant to subsection 0 of this
31 section. This paragraph does not apply to:

32 (a) A person who is an active duty Arizona peace officer standards and
33 training board certified or federally credentialed peace officer or who is
34 honorably retired as a federal, state or local peace officer with a minimum
35 of ten years of service.

36 (b) A person who is an active duty county detention officer and who
37 has been weapons certified by the officer's employing agency.

38 (c) A person who is issued a certificate of firearms proficiency
39 pursuant to subsection X of this section.

40 F. The application shall be completed on a form prescribed by the
41 department of public safety. The form shall not require the applicant to
42 disclose the type of firearm for which a permit is sought. The applicant
43 shall attest under penalty of perjury that all of the statements made by the
44 applicant are true. The applicant shall submit the application to the
45 department with a certificate of completion from an approved firearms safety

1 training program, two sets of fingerprints and a reasonable fee determined by
2 the director of the department.

3 G. On receipt of a concealed weapon permit application, the department
4 of public safety shall conduct a check of the applicant's criminal history
5 record pursuant to section 41-1750. The department of public safety may
6 exchange fingerprint card information with the federal bureau of
7 investigation for federal criminal history record checks.

8 H. The department of public safety shall complete all of the required
9 qualification checks within sixty days after receipt of the application and
10 shall issue a permit within fifteen working days after completing the
11 qualification checks if the applicant meets all of the conditions specified
12 in subsection E of this section. If a permit is denied, the department of
13 public safety shall notify the applicant in writing within fifteen working
14 days after the completion of all of the required qualification checks and
15 shall state the reasons why the application was denied. On receipt of the
16 notification of the denial, the applicant has twenty days to submit any
17 additional documentation to the department. On receipt of the additional
18 documentation, the department shall reconsider its decision and inform the
19 applicant within twenty days of the result of the reconsideration. If
20 denied, the applicant shall be informed that the applicant may request a
21 hearing pursuant to title 41, chapter 6, article 10.

22 I. On issuance, a permit is valid for five years, except a permit that
23 is held by a member of the United States armed forces, including a member of
24 the Arizona national guard or a member of the reserves of any military
25 establishment of the United States, who is on federal active duty and who is
26 deployed overseas shall be extended until ninety days after the end of the
27 member's overseas deployment.

28 J. The department of public safety shall maintain a computerized
29 permit record system that is accessible to criminal justice agencies for the
30 purpose of confirming the permit status of any person who claims to hold a
31 valid permit issued by this state. This information and any other records
32 that are maintained regarding applicants, permit holders or instructors shall
33 not be available to any other person or entity except on an order from a
34 state or federal court.

35 K. Notwithstanding subsection J of this section, it is a defense to
36 any charge for carrying a deadly weapon without a permit by a member of the
37 United States armed forces, including a member of the Arizona national guard
38 or a member of the reserves of any military establishment of the United
39 States, if the member was on federal active duty at the time the permit
40 expired and the member presents documentation indicating release from active
41 duty or reassignment from overseas deployment within the preceding ninety
42 days.

43 L. A permit issued pursuant to this section is renewable every five
44 years. Before a permit may be renewed, a criminal history records check
45 shall be conducted pursuant to section 41-1750 within sixty days after

1 receipt of the application for renewal. For the purposes of permit renewal,
2 the permit holder is not required to submit additional fingerprints.

3 M. Applications for renewal shall be accompanied by a fee determined
4 by the director of the department of public safety.

5 N. The department of public safety shall suspend or revoke a permit
6 issued under this section if the permit holder becomes ineligible pursuant to
7 subsection E of this section. The department of public safety shall notify
8 the permit holder in writing within fifteen working days after the revocation
9 or suspension and shall state the reasons for the revocation or suspension.

10 O. An organization shall apply to the department of public safety for
11 approval of its firearms safety training program. The department shall
12 approve a program that meets the following requirements:

13 1. Is at least eight hours in length.

14 2. Is conducted on a pass or fail basis.

15 3. Addresses all of the following topics in a format approved by the
16 director of the department:

17 (a) Legal issues relating to the use of deadly force.

18 (b) Weapon care and maintenance.

19 (c) Mental conditioning for the use of deadly force.

20 (d) Safe handling and storage of weapons.

21 (e) Marksmanship.

22 (f) Judgmental shooting.

23 4. Is conducted by instructors who submit to a background
24 investigation, including a check for warrants and a criminal history records
25 check.

26 P. If approved pursuant to subsection O of this section, the
27 organization shall submit to the department of public safety two sets of
28 fingerprints from each instructor and a fee to be determined by the director
29 of the department of public safety. On receipt of the fingerprints and fee,
30 the department of public safety shall conduct a check of each instructor's
31 criminal history record pursuant to section 41-1750. The department of
32 public safety may exchange this fingerprint card information with the federal
33 bureau of investigation for federal criminal history record checks.

34 Q. The proprietary interest of all approved instructors and programs
35 shall be safeguarded, and the contents of any training program shall not be
36 disclosed to any person or entity other than a bona fide criminal justice
37 agency, except ~~upon~~ ON an order from a state or federal court.

38 R. If the department of public safety rejects a program, the rejected
39 organization may request a hearing pursuant to title 41, chapter 6,
40 article 10.

41 S. The department of public safety shall maintain information
42 comparing the number of permits requested, the number of permits issued and
43 the number of permits denied. The department shall annually report this
44 information to the governor and the legislature.

1 T. The director of the department of public safety shall adopt rules
2 for the purpose of implementing and administering the concealed weapons
3 permit program including fees relating to permits and certificates that are
4 issued pursuant to this section.

5 U. This state and any political subdivision of this state shall
6 recognize a concealed weapon, firearm or handgun permit or license that is
7 issued by another state or a political subdivision of another state if both:

8 1. The permit or license is recognized as valid in the issuing state.

9 2. The permit or license holder is all of the following:

10 (a) Not a resident of this state.

11 (b) Legally present in this state.

12 (c) Not legally prohibited from possessing a firearm in this state.

13 V. For the purpose of establishing mutual permit or license
14 recognition with other states, the department of public safety shall enter
15 into a written agreement if another state requires a written agreement.

16 W. Notwithstanding the provisions of this section, a person with a
17 concealed weapons permit from another state may not carry a concealed weapon
18 in this state if the person is under twenty-one years of age or is under
19 indictment for, or has been convicted of, a felony offense in any
20 jurisdiction, even if the person's rights have been restored and the
21 conviction is expunged, set aside or vacated.

22 X. The department of public safety may issue certificates of firearms
23 proficiency according to the Arizona peace officer standards and training
24 board firearms qualification for the purposes of implementing the law
25 enforcement officers safety act of 2004 (P.L. 108-277; 118 Stat. 865; 18
26 United States Code sections 926B and 926C). A law enforcement agency shall
27 issue to a law enforcement officer who has honorably retired a photographic
28 identification that states that the officer has honorably retired from the
29 agency. The chief law enforcement officer shall determine whether an officer
30 has honorably retired and the determination is not subject to review. A law
31 enforcement agency has no obligation to revoke, alter or modify the honorable
32 discharge photographic identification based on conduct that the agency
33 becomes aware of or that occurs after the officer has separated from the
34 agency.